



915-011.005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re. Application of **Wilson** : Group Art Unit 2617
Serial No. **10/521,663** : Supervisory Examiner: N. Corsaro
Filed **September 22, 2005** : Examiner: A. Gonzales
For: Flexible Cover for a Mobile Telephone

Commissioner of Patents
Mail Stop AF
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

In response to the final Office Action of 4 May 2007 and the Advisory Action of 27 August 2007, reconsideration of the rejections is respectfully requested in view of the following remarks. A Notice of Appeal is being filed simultaneously and concomitantly with filing of this request.

Please note that a response to the final Office Action was filed on 3 July 2007, which was within two months of the mailing date of the final Office Action. However, the Advisory Action was mailed more than three months after the final Office Action. Therefore, Applicant has calculated the extension fee from the mailing date of the Advisory Action (see page 9 of the final Office Action).

I hereby certify that this correspondence is being deposited today with the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to: Commissioner for Patents, Mail Stop AF, PO Box 1450, Alexandria VA 22313-1450.


Margery B. Hood

Dated:

Oct. 29, 2007

REMARKS

Claims 1-16 and 20 are pending and stand rejected. The independent claims are mobile claim 1, cover claim 16, and mobile telephone claim 20. The final Office Action stated that these claims are obvious under 35 U.S.C. § 103(a) from *Halkosaari* (U.S. Patent Application No. 20020193136) in view of *Hsu* (U.S. Application No. 20030083094).

Present claim 1 includes “a flexible cover overlying, without an intermediate rigid cover ... the engine assembly.” Thus, there is no rigid cover, according to present claim 1. Applicant respectfully submits that the cited references do not teach or suggest this critical feature. Both of the cited references disclose a rigid cover.

The final Office Action acknowledges at page 2 that *Halkosaari* discloses a “user changeable cover...[but] does not refer to a flexible cover.” The final Office Action is correct on this point, because *Halkosaari* discloses near the end of paragraph 16 that the housing 8 should be “stiffer” as compared to other prior art housings.

The Advisory Action asserts that *Hsu* discloses at paragraphs 7-9 that the cover is flexible. Applicant respectfully disagrees. See the penultimate sentence in paragraph 9 of *Hsu*, which refers to a solidified resin. It is very well known to persons of ordinary skill that a solidified resin is not flexible, and thus the cover of *Hsu* is not flexible.

Hsu discloses that the cover includes a skin made of fabric or leather (see paragraph 9, line 6 of *Hsu*). However, *Hsu* also discloses that the skin is attached to solidified resin, meaning that the skin and cover are obviously not flexible. At paragraph 15, *Hsu* says that the solidified resin layer 4 is “bonded together” with a plastic film layer 3, and at paragraph 17 *Hsu* says that the plastic film layer 3 is “firmly secured” to the skin 2. It is thus very clear from *Hsu* that the skin 2 is not flexible, because it is bonded and secured to a solidified resin layer.

Hsu does not suggest that the skin might be flexible. And even if *Hsu* did suggest that feature, both *Hsu* and *Halkosaari* include a rigid cover, contrary to the present claimed invention.

Hsu does not teach or suggest that the skin 2 can function as a cover 1 on its own, i.e. without being secured and bonded to the plastic film layer 3 and the base resin layer 4. *Hsu teaches away* from such a thing, because *Hsu* discloses that an enclosure comprises all of the following: the skin 2, the plastic film layer 3, and the base resin layer 4. Consequently, a person skilled in the art would not consider taking only the skin 2 in *Hsu* and using it for the housing 8

in *Halkosaari*, because *Hsu* does not teach that the skin may be used for the cover on its own, nor does *Hsu* suggest detaching the skin from the plastic film layer or from the solidified resin layer.

Additionally, it is unobvious to adapt the teaching of *Halkosaari* to include a flexible cover, because *Halkosaari* teaches that the housing 8 should be “stiffer” as compared to other prior art housings. That stiffness is required so that the seal 42 may be held together with as few fasteners as possible (see the end of paragraph 16). Thus, *Halkosaari* teaches away from a non-stiff housing. Consequently, a person skilled in the art would not adapt *Halkosaari* to include a flexible cover because it would result in the seal 42 of *Halkosaari* becoming less waterproof (which is contrary to the object of *Halkosaari* - see the end of paragraph 4) and would require a greater number of fasteners.

As the Supreme Court recently reiterated in *KSR International v. Teleflex*, 127 S.Ct.1727 (2007), “when the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be nonobvious.” Applicant respectfully submits that that is the case here with regard to all three independent claims, for the reasons explained above in the context of claim 1.

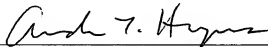
CONCLUSION

Applicants respectfully submit that the claims of the present application define patentable subject matter and are patentably distinguishable over the cited references for the reasons explained. The rejections of the final Office Action being inapplicable, retraction thereof is requested, and early passage of the pending claims to issue is earnestly solicited.

Respectfully submitted,

Dated: 29 Oct 2007

WARE, FRESSOLA, VAN DER
SLUYS & ADOLPHSON LLP
Building Five, Bradford Green
755 Main Street, P.O. Box 224
Monroe, CT 06468
Telephone: (203) 261-1234
Facsimile: (203) 261-5676
USPTO Customer No. 004955



Andrew T. Hyman
Attorney for Applicant
Registration No. 45,858